

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan D. Link on 13 November 2009.

The application has been amended as follows:

22. (Currently Amended) A method for deriving the blood pressure and pulse of a ~~subject~~ subject, said method comprising:

detecting a pulse wave form and pulse rate from a foot of the subject via an interface member, the foot of the subject presented to the interface member;

analyzing, by a processor module, the pulse wave form and pulse rate signal and deriving a pulse pressure of the subject based on the analysis; and

outputting, by an output module, at least one of the pulse wave form, the pulse rate and the pulse pressure,

wherein the interface member is inflated and maintained at a substantially constant pressure and is configured to function when in indirect contact with the subject's body.

REASONS FOR ALLOWANCE

2. According to the Amendment, filed 20 July 2009, the status of the claims is as follows:

Claims 1, 2, 4, 6-9, 11, 12, 14, 17, 19, 21-23, 25, 27-29, 32, 34 are currently amended;

Claim 20 is as originally filed;

Claims 5, 10, 13, 18, 26, 33 are previously presented;

Claims 35-40 are new; and

Claims 3, 15, 16, 24, 30, 31 are cancelled.

3. The 35 U.S.C. 112, second paragraph, rejections to claims 1-21 are WITHDRAWN in view of the Amendment, filed 20 July 2009.

4. Applicant's arguments, see Remarks, pp. 9-13, filed 20 July 2009, with respect to the rejection of claims 1-34 under 35 U.S.C. 103(a) as being unpatentable over Lemelson, U.S. Patent No. 4,299,233 A ("Lemelson"), in view of Barnes et al, U.S. Patent No. 5,406,952 A ("Barnes"), have been fully considered, and are persuasive. The rejection of claims 1, 2, 4-14, 17-23, 25-29, 32, and 33 has been withdrawn. Claims 3, 15, 16, 23, 30, and 31 were cancelled in the Amendment, filed 20 July 2009, and thus, rendering the rejection of these claims moot.

5. Claim 22 is objected to because of the following informalities: In lines 1-2, the claim has a typographical error by reciting "subject subject". Appropriate correction is required.

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22, 23, 25-29, 33, 35, and 38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 22, 23, 25-29, 33, 35, and 38 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter because these claims are method or process claims that do not transform underlying subject matter (such as an article or materials) to a different state or thing, nor are they tied to a particular machine. See *Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (quoting *Benson*, 409 U.S. at 70); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978) (citing *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)). See also *In re Bilski* (Fed Cir, 2007-1130, 10/30/2008) where the Fed. Cir. held that method claims must pass the "machine-or-transformation test" in order to be eligible for patent protection under 35 USC 101.

7. In a telephonic interview on 13 November 2009, the objection of claim 22 and the 35 U.S.C. 101 rejection of claims 22, 23, 25-29, 33, 35, and 38 above were discussed. Applicant's representative, Jonathan D. Link, agreed to the Examiner's Amendment above to overcome the objection and the rejection. See Examiner-Initiated Interview Summary, mailed herewith.

8. Claims 1, 2, 4-14, 17-23, 25-20, 32, and 33 are allowed.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. N./
Patent Examiner, Art Unit 3735
11/13/2009

/Charles A. Marmor, II/
Supervisory Patent Examiner
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